

# **FISCAL NOTE**

## **SB 3212 - HB 3250**

February 11, 2004

**SUMMARY OF BILL:** Enacts the *Tennessee Charitable Gaming Implementation Law*, which would establish a process for 501(c)(3) charitable organizations to hold one game of chance, excluding bingo and casino gambling, per fiscal year, as follows:

1. In order to hold an annual event, a 501(c)(3) organization would be required to do the following:
  - Submit an annual event application with the Secretary of State prior to March 13, 2004, and prior to January 1 in any subsequent year;
  - Be in existence as a 501(c)(3) organization for a least five years before the filing of an application;
  - Provide an accounting to the Secretary of State within 90 days of the event signed by the preparer and the organization's highest officer. The accounting must contain the gross amount received, the amount expended, the amount allocated to charitable programs, and the name and address of any person who won a prize valued at \$100 or more. In addition, for events that gross over \$30,000, the accounting must include a breakdown on amounts spent for overhead; and
  - Keep accurate fiscal records regarding all income and expenses and specifically maintain all records relating to such annual events for at least three years.
2. The Secretary of State would be required to do the following with regard to 501(c)(3) organization events:
  - Examine each annual event application for conformity with the requirements of this statute, all relevant rules and regulations and Article XI, Section 5 of the Constitution of Tennessee. The Secretary of State shall approve the proposed lottery activity and establish and assess a fee, if all requirements are met.
  - The Secretary of State and the Tennessee Claims Commission shall promulgate necessary rules and regulations to carry out the provisions of this law.
  - Create a standard application for charitable raffles and set an application fee up to \$500 and accept such applications and fees;
  - Provide an omnibus list of qualifying organizations, applied-for events and dates for events to each House of the General Assembly via electronic format;
  - Post authorization for charitable events on the Secretary of State's Web site;
  - Post 501(c)(3) organization post-event accountings on the Web site;

**SB 3212 - HB 3250**

- Entertain requests for reconsideration of denials. The Tennessee Claims Commission would hear any appeals of the Secretary of State's final decision.
  - Any late application would be denied. The Secretary of State would be authorized to make rules for amending applications prior to the deadline.
3. The bill would create the following new criminal offenses regarding raffles:
- Knowingly holding a raffle more than 10 days from the date listed in the application would be a Class C misdemeanor punishable only by fine of up to \$1,000 per day for each violation.
  - Knowingly selling raffle tickets or conducting raffle activities more than 120 days from the date listed in the application would be a Class C misdemeanor punishable only by fine of up to \$1,000 per day for each violation.
  - Knowingly conducting more than one raffle per year would be a Class C misdemeanor punishable only by fine of up to \$10,000 per violation;
  - Knowingly conducting a raffle at a location other than that listed in the application would be a Class C misdemeanor punishable only by a fine of up to \$10,000 per violation.
  - Knowingly engaging in gambling promotion under the guise of conducting a charitable raffle would be a Class A misdemeanor punishable by fine only of the greater of \$50,000 or the gross proceeds from the gambling activity;
  - Knowingly failing to file an accounting for a charitable raffle would be a Class B misdemeanor punishable only by fine of the greater of \$25,000 or the gross proceeds of the raffle;
  - Knowingly filing a raffle accounting late or making a material false statement in an application would be a Class C misdemeanor punishable only by fine of the lesser of \$5,000 or the gross proceeds of the raffle;
  - Altering or forging a raffle ticket, or attempting to use an altered or forged ticket, would be Class B misdemeanor punishable only by fine of up to \$25,000;
  - Knowingly making a material false statement in a raffle accounting would be a Class B misdemeanor punishable only by fine of the greater of \$25,000 or the dollar amount of the false statement; and
  - Knowingly influencing, or attempting to influence, the winning of a prize through coercion, fraud, deception, or tampering with raffle equipment would be a Class A misdemeanor punishable only by fine of up to \$50,000.
4. Any person who does not submit an accounting within 90 days of the event would be prohibited from submitting an event application for five years. Any other violation of this bill or a criminal conviction involving gambling or lottery sales would result in permanent disqualification from submitting an event application.

5. Under the bill, it is an affirmative defense to prosecution that a person reasonably and in good faith relied upon the representations of a gambling promoter that a gambling activity was lawful because it was an authorized annual event.
6. The bill creates the Charitable Gaming Oversight Committee. The committee shall periodically review and evaluate the operation of the Tennessee charitable gaming implementation law. The bill authorizes the Secretary of State and the Tennessee Claims Commission to create rules, including public necessity rules, to help implement charitable gaming.

## **ESTIMATED FISCAL IMPACT:**

### **Increase State Expenditures:**

**\$199,000 Current Year FY03-04/Secretary of State**

**\$475,000 Recurring FY04-05/Secretary of State**

**\$1,324 Recurring FY04-05/Select Oversight Committee for  
Each One Day Meeting**

**Increase State Revenues - \$45,000 Current Year FY03-04  
\$510,000 FY04-05**

Estimate assumes:

- Application fee will be set at \$300.
- There are approximately 17,000 organizations (excluding private foundations) which hold themselves out as 501(c)(3) organizations in Tennessee according to the Internal Revenue Service 2002 Masterfile. The IRS estimates that approximately 5,000 of the 17,000 are required to annually file a Form 990 (the remaining 12,000 include churches and organizations with gross revenue not exceeding \$25,000 each taxable year and therefore not required to file the annual financial report).
- The cost estimate assumes 10% of the 17,000 organizations exempt under IRS section 501(c)(3) (1,700) will apply for approval to conduct approved forms of lottery games in the second and subsequent years. The bill permits organizations to apply for approval to conduct an annual event beginning in the current year (FY03-04). It is estimated that 150 organizations will apply during this period.
- Any cost to the Tennessee Claims Commission associated with the review of the final decisions of the Secretary of State is estimated to be not significant and can be handled within existing staff and budgeted resources.
- Any cost to the District Attorneys General Conference to provide the necessary prosecutorial resources to deal with any infractions of the law, is estimated to be not significant and can be handled with existing staff and budgeted resources.

- The cost for the Select Oversight Committee to review and evaluate the operation of the Tennessee Charitable Gaming Implementation Law is estimated to be \$1,324 for each one-day meeting. This estimate assumes travel and per diem expenses for six legislative members for each one-day meeting of the committee.

Details of this estimate are shown below:

**FY03-04 Expenditures (3-4 Months)**

Personnel costs (temporary, contract and/or overtime cost)	\$136,000
Rent	16,240
Computer equipment/printers (one-time)	24,000
Office furniture (one-time)	21,000
Printing, supplies, communication	1,500
Total FY03-04	<u>\$198,740</u>

**FY03-04 Revenues (3-4 Months)**

501(c)(3) Charities (150 x \$300)	<u>\$45,000</u>
Assumes permit applications from 150 organizations	

**FY04-05 Expenditures**

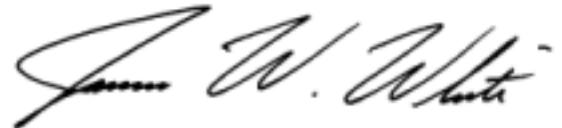
Personnel costs (7 positions)	\$457,200
Rent	16,240
Printing, supplies, communication	1,500
Total FY04-05	<u>\$474,940</u>

**FY04-05 Revenues**

501(c)(3) Charities (1,700 x \$300)	<u>\$510,000</u>
Assumes 1,700 applications filed for approval of annual event	

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director